

UNITED STATES DISTRICT COURT

JAN 25 2022

for the
District of UTAHDR. KIMBERLY A. FREE, CLERK
BY _____
DEPUTY CLERKPAUL MICHAEL WACH
Petitioner

v.

THE STATE OF UTAH, THE UTAH DEPT. OF CORRECTIONS, AND THE UTAH BOARD OF PAROLES AND PARDON, Past & Present MEMBERS.
Respondent
(name of warden or authorized person having custody of petitioner)

Case: 2:22-cv-00048

Assigned To : Kimball, Dale A.

Assign. Date : 1/25/2022

Description: Wach v State of Utah et al

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Paul Michael Wach
(b) Other names you have used: _____2. Place of confinement:
(a) Name of institution: UTAH STATE PRISON
(b) Address: P.O. Box 250, DRAPER, UTAH 84020-0250(c) Your identification number: 277143. Are you currently being held on orders by:
☐ Federal authorities ☒ State authorities ☐ Other - explain: _____4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

(a) Name and location of court that sentenced you: 3rd Dist. Court of UTAH
SALT LAKE CITY 450 SO. STATE ST S.L.C. UT 84114(b) Docket number of criminal case: 991901439(c) Date of sentencing: 18-OCT-1999☐ Being held on an immigration charge
☒ Other (explain): EXCEEDS THE STATUTORILY AUTHORIZED MAXIMUM, AND IS AMBIGUOUS AS TO THE TIME AND MANNER IN WHICH IT IS TO BE SERVED. 76-3-401 (1), 77-27-11(6)(c) & UTAH STATE AND U.S. CONSTITUTIONAL RIGHTS VIOLATIONS.

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention

☐ Immigration detention

☐ Detainer

☒ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

☐ Disciplinary proceedings

☒ Other (explain) UTAH STATE AND U.S. CONSTITUTIONAL RIGHTS VIOLATED.
VIOLATIONS OF PROCEDURE STATE.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: _____

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): _____

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal** — ATTACHED

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes

☐ No

YES EXHAUSTED
13-SEPT-2016

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: 3RD DIST COURT SALT LAKE County
SALT LAKE CITY DIST. 450 SO. STATE STREET SLU UTAH 84114

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: 991901439 190906706

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: FUNDAMENTAL FAIRNESS, 14TH AMENDMENT OF THE U.S. Constitution,
ARTICLE 1 SEC. 7 OF UTAH CONST. AS WELL AS "UNNECESSARY RIGOR" ARTICLE 1
SEC. 9 OF UTAH CONST. WHICH CONSTITUTES CRUEL AND USUOUS PUNISHMENT
SEE: EQUAL PROTECTION 14TH AMENDMENT OF U.S. Constitution
AND ARTICLE 1, SEC. 24 OF UTAH Constitution

DOUBLE JEOPARDY AND VIOLATING EACH HIS CONSTITUTIONAL
DUE PROCESS RIGHTS BY NOT DISCLOSING ALL INFORMATION PRIOR

(b) If you answered "No," explain why you did not appeal: TO PAROLE VIOLATION HEARING.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: 8 UTAH COURT OF APPEALS

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: 20200640 - CA

(4) Result: AFFIRMED STATE DECISION DIST COURT

(5) Date of result: 20 July - 2021

(6) Issues raised: UTAH STATE AND U.S. CONSTITUTIONAL RIGHTS VIOLATIONS

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: SUPREME COURT OF THE STATE OF UTAH

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: 20210686 - SC

(4) Result: DENIED. WRIT OF CERTIORARI

(5) Date of result: 8-DEC-2021

(6) Issues raised: UTAH STATE AND U.S. CONSTITUTIONAL RIGHTS VIOLATIONS

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes

☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals? _____

☐ Yes

☒ No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: EQUAL PROTECTION OF THOSE SIMILARLY SITUATED. THE BOARD ACTED IN AN ARBITRARY AND CAPRICIOUS MANNER. WACH WAS SENTENCED BY BOARD AN UNOULY HARSH 149 MONTHS SENTENCE BEFORE A RE-HEARING FOR A VIOLATION OF PAROLE. (MISDEMEANOR)

(a) Supporting facts (Be brief. Do not cite cases or law.):

JUDGE MORRIS, DAVIS CO. UTAH SENTENCED WACH TO TIME SERVED/CASE CLOSED ON A MISDEMEANOR - THE UT. Bd. of PIDS. THEN ORDER HIM INCARCERATED AT STATE PRISON FOR MORE THAN 12 YEARS BEFORE HIS NEXT SCHEDULED RE-HEARING.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: DUE PROCESS RIGHTS VIOLATION

(a) Supporting facts (Be brief. Do not cite cases or law.):

THE UTAH BOARD OF PAROONS DID NOT DISCLOSE ALL INFORMATION CONTAINED IN THEIR FILE. PRIOR TO VIOLATION OF PAROLE REVOCATION HEARING.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: VIOLATION OF RIGHTS THE UNFOUNDED, AND THE UN DISCLOSED, MIS INFORMATION, CAUSED BOARD TO BIAS/PREJUDICE IN THEIR DECISION. ALSO, PLACING WACH IN A SUSPECT CLASS WRONGLY.

(a) Supporting facts (Be brief. Do not cite cases or law.):

AT PAROLE HEARING, BOARD MEMBER, JESSE CALLEGOS STATED: "KNOWING EVERYTHING YOU'VE DONE (WACH) CONVICTED AND UN CONVICTED." PLEASE, SEE: PAGE 10 OF HEARING TRANSCRIPTS

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No

GROUND FOUR: PETITIONER IS IMPRISONED UNDER AN
UNLAWFULLY IMPOSED SENTENCE

(a) Supporting facts (Be brief. Do not cite cases or law.): THE DECISION AT PRESENT BY UT. B.O.P.,
IT SHOCKS THE CONSCIOUS AS TO THE INHERENTLY AND
FUNDAMENTALLY UNFAIRNESS,

THE SEVERITY OF TIME TO BE SERVED FOR A
MISDEMEANOR VIOLATION OF PAROLE, AND THE DISREGARD
OF PLEA BARGAIN AT MISDEMEANOR SENTENCING,
AND CREATES CRUEL AND UNUSUAL PUNISHMENT AND EMOTIONAL

(b) Did you present Ground Four in all appeals that were available to you?

DISTRESS,

☒ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: THAT THIS HONORABLE COURT INTERVEIN
AND GRANT PETITIONER HIS IMMEDIATE RELEASE FROM CONFINEMENT
AT THE UTAH STATE PRISON, ISSUE AN ORDER THAT INTERNALLY
CONTRADICTORY OMITS A TERM REQUIRED TO BE IMPOSED BY
STATUTE IS VOID FOR VAGUENESS/ NOT VALID TO EXTENT 10-TO-LIFE
TERM FIXED BY COMP. LAWS 1917, UTAH CODE ANN. 202 §
AND ALL SENTENCES BY IMMEDIATELY TERMINATED.

Declaration Under Penalty Of Perjury

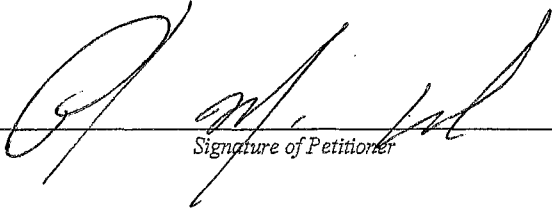
If you are incarcerated, on what date did you place this petition in the prison mail system:

10 JAN 22

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

10 JAN 22


Signature of Petitioner

Signature of Attorney or other authorized person, if any